IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 24992 of 2004

Between:

Satyanarayana, S/o. A.V. Raghavaiah,
R/o. Plot No. 11, Sonali Colony, Phase II, Bowenpally,

Secunderabad - 500 011.

..... PETITIONER

AND

1 The District Collector, O/o. The Collectorate,
Civil Supplies, Mahabubnagar District.
2 Superintending Engineer, Panchayat Raj,
Mahabubnagar District, Mahabubnagar.
3 Executive Engineer, Panchayat Raj, Nagarkurnool,
Mahabubnagar District.
4 Revenue Divisional Officer, Nagarkurnool.
5 MRO, Kollapur Mandal, Mahabubnagar District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order, more particularly one in the nature of writ or Mandamus declaring the proceedings No. CS1/1026/2004 dt. 13-12-2004 of the Respondent No.1 as far as direction No. 3 is concerned as illegal and arbitrary and consequently direct the respondent No. 1 to release the rice component in favour of the petitioner.

Counsel for the Petitioner: MR.T.HANUMANTHA REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following :

ORDER:

The petitioner is a Class-I Contractor. He claims to have executed many civil contracts entrusted to him by the Government. The work of laying CC Approach Road to VIP Ghat & other places near Sri Someshwara Swamy Temple, Somasila, Mahbubnagar District is said to have been entrusted to him vide proceedings, dated 06.05.2004 by the District Collector, Mahbubnagar, for a sum of Rs.11,74,919.10/-. The cost of the contract is stated to be comprising of cash component of Rs.4,46,838/- and rice component for the remaining value.

The petitioner states that he was released 600 quintals of rice for the work executed by him by the A.P. Civil Supplies Corporation in the month of October, 2004 through Fair Price Shop No.7 at Kollapur. The 5th respondent viz., Mandal Revenue Officer, Kollapur, seized the rice when it was being transported vide proceedings, dated 13.12.2004. The petitioner challenges the seizure of rice.

Learned counsel for the petitioner states that the rice allotted to the petitioner, which is a part of the consideration for the work executed by him, was channelised through the fair price shop and it did not form part of the commodities meant for public distribution. He contends that whatever may have been the justification for the 5th respondent in effecting seizure of the commodities meant for public distribution, there is no basis for seizing the rice allotted to the petitioner. Placing reliance upon a judgment of this Court in ***Sheela Srinivas v. District Collector, Karminagar District,*** he contends that it is impermissible to proceed against the rice allotted to the petitioner.

Learned Government Pleader, on the other hand, submits that the fair price shop dealer committed certain irregularities and in the process of effecting seizure of other essential commodities meant for pubic distribution, the rice allotted to the petitioner was also seized, since it was not properly accounted for.

The petitioner was awarded the contract by the District Collector, 1st respondent, through proceedings dated, 06.05.2004. The rice component and the cash component were clearly indicated therein. The part of the rice component was released to the petitioner. For the sake of convenience, it was channelised through the nearest fair price shop dealer. The 5th respondent conducted inspection of the fair price shop on 13.12.2004. Along with the other commodities, he found the rice meant for SGRY, to be handed over to the petitioner. The 5th respondent effected the seizure of 389.15 quintals of rice, which, admittedly, was earmarked for SGRY schemes, of which the petitioner was allotted the work.

At present, there do not exist any restrictions on the movement or stocking of rice in the State or for that matter, the Country. Even where any irregularities are noticed in respect of rice earmarked for food for work, the only course open to the authority concerned is to initiate proceedings under the Code of Criminal Procedure (for short 'Cr.P.C'). This aspect of the matter was extensively dealt with by this Court in ***Sheela Srinivas***'s case (1 supra). It was held therein that even where any irregularities are noticed in respect of the rice meant for food for work, the only action that can be taken is to initiate proceedings under Cr.P.C. Reference was made to the circular, dated 12.08.2002 issued by the Commissioner of Civil Supplies. Till today, no proceedings appear to have been initiated against the petitioner under Section 6-A of the Essential Commodities Act. Even if any such proceedings are initiated, they are incompatible. Therefore, the 5th respondent has no power or jurisdiction to detain or otherwise deal with the rice earmarked for distribution to the petitioner.

Therefore, the writ petition is allowed and the order of seizure, dated 13.12.2004 passed by the 5th respondent, insofar as it relates to 389.15 quintals of rice allotted to the petitioner, is set aside and the same shall be released to the petitioner forthwith. There shall be no order as to costs.

Jsu 02.02.2005

To

1 The District Collector, O/o. The Collectorate,
Civil Supplies, Mahabubnagar District.
2 Superintending Engineer, Panchayat Raj,
Mahabubnagar District, Mahabubnagar.
3 Executive Engineer, Panchayat Raj, Nagarkurnool,
Mahabubnagar District.
4 Revenue Divisional Officer, Nagarkurnool.
5 MRO, Kollapur Mandal, Mahabubnagar District.

6 2 CCs to the G.P. for Civil Supplies, High Court Buildings,

Hyderabad. (OUT)

7 2 CD copies.